

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH A. POPHAL,

Defendant.

ORDER

04-cr-140-bbc
13-cv-509-bbc

Defendant Keith A. Pophal has filed a motion for post conviction relief under 28 U.S.C. § 2255, contending that his 2005 conviction for being a felon in possession of firearms can no longer stand in light of two recent decisions by the United States Supreme Court in Alleyne v. United States, 133 S. Ct. 2151 (2013), and Descamps v. United States, 133 S. Ct. 2276 (2013). His motion must be dismissed for lack of jurisdiction, because he filed a § 2255 motion in 2012, which was denied in an order entered on October 3, 2012. Dkt. #2. Under 28 U.S.C. § 2255(h), he cannot file a second motion unless he obtains certification for filing from a panel of the Court of Appeals for the Seventh Circuit. Until he does so, this court has no jurisdiction to consider any motion he might file.

ORDER

IT IS ORDERED that defendant Keith A. Pophal's motion for post conviction relief

under 28 U.S.C. § 2255 is DENIED for lack of jurisdiction.

Entered this 22d day of July, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge